The Solicitors' Journal

(ESTABLISHED 1857.)

*** Notices to Subscribers and Contributors will be found on page iii.

VOL. LXXIV. **Saturday, August 23, 1930.** No. 34

Current Topics.

A Tribute to the late Lord Finlay.

ENGLISH LAWYERS are justly proud of the distinction which the late Lord FINLAY achieved in the law. A great jurist, Lord FINLAY had, when Attorney-General, to consider numerous questions of international and constitutional law of great importance; and so, too, when he became Lord Chancellor, he had to take part in the decision of many cases involving the like points. To these he brought a clear mind, great industry, and the passionate desire to do justice. All this proved to be a valuable experience when at a ripe age he accepted the position of a judge of the Permanent Court of International Justice at The Hague—an office which, during the years that he held it, he adorned by his great learning, by his patience, and by his intense interest in the work which came before him. After his death, it will be remembered, a glowing tribute was paid to his memory by the President of that great tribunal at The Hague, and now his fellow Benchers of the Middle Temple have joined in that tribute by presenting to the Court his portrait by Mr. G. FIDDES WATT, a replica of that which hangs in the Middle Temple. No more fitting way could have been planned for commemorating Lord FINLAY's connexion with the Permanent Court of International Justice where so much of his later work was accomplished.

Building Societies and Income Tax.

MOST BUILDING societies have been assessed in recent years under what is known as "Arrangement B," a scheme entered into between the Revenue authorities and the building societies. Under this arrangement the societies are assessed directly to income tax under Sched. D on dividends on shares, bonuses, and deposit or loan interest on deposits and so forth, of £5,000 or more, and in certain other circumstances, but are exempted from liability to tax under Sched. A on property owned. The details of the scheme are well known to solicitors, and it is interesting to learn that negotiations have been carried out between the Revenue and the National Association of Building Societies on the desire of the Revenue to test the fairness of the scheme. As a result of these discussions, the societies are to furnish the names and addresses of members or depositors holding £1,000 or more in building societies. Three per cent. of other investments will be taken out in varying order and similar particulars given. From this information the Revenue authorities expect to be able to judge the average amount of the individual investments in such societies. The Revenue have given a written undertaking that the information will be treated as confidential. When the authorities have reached a conclusion as to the fairness or otherwise of the existing "Arrangement B," they will confer with the executive of the National Association of Building Societies with a view to the correction of the scheme on either side if this should be found necessary.

Lawyers as Arbitrators.

IN HIS recently published work on "Industrial Arbitration in Great Britain," Lord AMULREE, a former President of the Industrial Court, mentions, in connexion with certain notable trade disputes, that the services of various distinguished lawyers—men like Lord HERSCHELL, Lord JAMES OF HEREFORD and Sir EDWARD FRY—were more than once invoked in the endeavour to bring about peace between employers and workmen, and he then adds, that "there was a certain presumption in favour of persons with legal training, but it was not more than a presumption." The latter qualification was, it appears, prompted by the recollection that a certain distinguished, but anonymous, counsel, who afterwards became a judge, so signally failed that the award he issued was described as having done more harm to the arbitration question than any other thing. But the fact that one lawyer, eminent in his own line, failed to prove a successful arbitrator in an industrial dispute does not affect the general principle that, other things being equal, one who is called upon to secure an industrial settlement has an immense advantage if he is a lawyer, and thus trained to test and appreciate the weight of evidence and the force of the arguments presented. Fresh illustration of this was furnished by the frequency which Lord MACMILLAN, before his appointment as a Lord of Appeal, was invited to undertake the rôle of arbitrator in industrial disputes. Few lawyers have brought to the performance of such a task such eminent gifts as he did, and few were more successful in commanding the respect and esteem of those whose trade quarrels he sought to compose than he. Curiously enough, upon another member of the Scots Bar, less known in the south, it is true, but of wide legal knowledge and great conciliatory gifts—Mr. T. GRAHAM ROBERTSON, K.C.—has the mantle of Lord MACMILLAN fallen in the rôle of industrial arbitrator. In various minor offices in Scotland, Mr. GRAHAM ROBERTSON succeeded Mr. MACMILLAN, as he then was, and he succeeds him once again by his selection for the post of independent chairman at national general conferences under the conciliation machinery agreement concluded in 1927, between the Shipbuilding Employers' Federation and the Shipyard Trade Unions. Thus, once again, one notable lawyer follows another in the difficult but beneficent duty of seeking to settle the differences between the two bodies of employers and employees; and the circumstance shows the respect paid to the independence and impartiality of the legal mind despite the supposed popular prejudice against lawyers.

Disqualification of Juror by Kinship.

"JURORS," wrote BLACKSTONE in Book III of his "Commentaries," "may be challenged *propter affectum*, for suspicion of bias or partiality. This may be either a principal challenge, or to the favour. A principal challenge is such, where the cause assigned carries with it *primâ facie* evident marks of suspicion, either of malice or favour: as, that a juror is of kin to either party within the ninth degree." In

England we rarely hear of the challenge of a juror on this ground, but it would appear to be common in the United States, where the rules on this, as on so many other points, are enforced with a rigour unknown in this country even in the epoch of MEESON and WELSBY. Quite recently, in a case in the State of Georgia, after verdict and judgment for the defendant, the plaintiff moved for a new trial on the ground that one of the jurors was related to the defendant within the prohibited degrees of relationship. Despite the fact that the juror in question was unaware of his relationship to the defendant, the court ordered a new trial. The same strict interpretation of the rule as to disqualification of a juror by relationship has been followed in certain States, but not in all; it was not followed in the latest case we have discovered in England—*Onions* v. *Nash* (1819), 7 Price 203. Commenting on the *Georgia Case* referred to above, an American writer says very pertinently that "as in the instant case the incompetency was merely a technical error and could not possibly have affected the verdict, it seems a useless gesture to grant a new trial and thus clutter up the calendar of already overburdened courts." We entirely agree and have nothing to add.

The Recovery of Tithe Rent-charge.

TERMS OF art in a conveyance may sometimes mislead owners of property, as appears from *Queen Anne's Bounty* v. *Guy*, recently heard at Tavistock County Court. The applicants claimed 17s. in respect of tithe rent-charge upon a field, a portion of which was owned by the respondent, and maps were produced in support of the claim. The amount had previously been paid by an adjoining owner, who had since discovered the mistake, but the respondent pointed out that eighteen owners were concerned, and he himself had been unable to ascertain the position from his own deeds, as the name of the previous payer had been withheld. The applicants had refused the information, on the ground that it was no concern of the respondent, although he was liable for a contribution to the person who had paid by mistake. The respondent's case was that he had been in possession for fifteen years, but had never paid any tithe, and he bought under the impression that none was payable. His Honour Judge LIAS observed that, where a plot had been divided, the applicants could claim from one of several owners, who were liable to contribute their proportions to the one who paid. Judgment was therefore given for the applicants, with costs, their refusal of information being no ground for depriving them of costs, as suggested by the respondent. It was stated, on behalf of the applicants, that there was considerable misapprehension as to liability, owing to a general failure to appreciate that a conveyance "free from incumbrances" does not imply any exemption from tithe rent-charge. See a "County Court Letter" under the above title in our issue of the 7th January, 1928 (72 SOL. J. 7).

Increasing Noise.

IN *The Times* recently there have appeared a number of letters referring to the noise from aeroplanes, and many of the opinions expressed seem to regard the noise as an objectionable interference with the hitherto peaceful atmosphere of residential districts. Whether at present objectionable or not, we are unavoidably faced with the question as to what the future will bring. Suggestions have already been made regarding the possibility of conducting advertising campaigns from aeroplanes through the medium of loud speakers, and in the advertising display of a short time ago there appeared an advertisement under the heading "Mass Appeal," pointing to the advantages (to the advertiser) of having his message displayed on each side of an airship manœuvring slowly overhead at a low altitude. In that case the noise of the engines would, of course, be one of the "drawing" factors. When one considers the authorities dealing with nuisance by noise, there are many cases in which injunctions have been granted to restrain the continuation of noises which, compared with the incessant roaring of an aeroplane or airship engine, are practically negligible, but in those cases the noises have generally been localised and continuous. A far greater problem is presented where the alleged nuisance is not only a moving and varying one, as in the case of noise from an aeroplane, but one to which perhaps the majority of people do not seriously object. Again, there has recently been an outcry against the danger of having the sky over large towns blotted out by advertisements spelt out in smoke by aeroplanes. Undoubtedly, from the standpoint of older people who were earlier unaccustomed to these new noises, there is a legitimate grievance. The modern generation, however, in growing up with the advantages and disadvantages inseparably connected with the continued production of mechanical inventions, appears to accept what disadvantage there may be in the way of noise with comparative indifference. Should the trouble develop too much no doubt legislation will be passed to meet it. There is one case where an injunction was granted to restrain the noise caused by the manufacture of aeroplane engines in a residential district (*Bosworth-Smith* v. *Gwynnes, Ltd.* (1919), 89 L.J., Ch. 368). And, further, in this connexion the *Sunday Observer* of the 13th July contained a paragraph describing a new giant loud speaker which has been made in Germany; which "combines extraordinary clarity of speech with intense penetrating powers: it does not shout; it talks; and the still small voice is capable of flooding a whole city with sound, at once overpowering everything else within reach." Further comment is unnecessary.

Light Dues.

AN INTERESTING case bearing on the payment of light dues by vessels proceeding on foreign voyages came before Mr. Justice ROWLATT on the 17th June (*Corporation of Trinity House* v. *Owners of s.s. "Cedar Branch,"* 74 SOL. J. 438). The vessel in question, the "Cedar Branch," before proceeding to foreign ports had loaded cargo at Swansea, London, in the Tyne, at Glasgow, and at Liverpool. Light dues in respect of the foreign voyage were paid at Swansea. When the vessel was in Glasgow, however, she loaded some cargo for Liverpool. After she had discharged that cargo at Liverpool she completed loading there and finally sailed on her main voyage from that port. The contention of the plaintiffs, the Corporation of Trinity House, who brought the action in a friendly spirit to ascertain their legal position, was that in undertaking the carriage of the cargo from Glasgow to Liverpool the vessel was engaged in a home-trade voyage and was liable to pay light dues on such voyage in addition to those payable in respect of the foreign voyage. Mr. Justice ROWLATT, giving judgment for the defendant shipowners, said that the scheme of the Act was to make dues payable by voyages, and that the governing principle appeared to be that, while a vessel was performing a foreign voyage she could not be made liable on any other sort of voyage at the same time. The words of r. 2 of the 2nd Sched. to the Merchant Shipping (Mercantile Marine Fund) Act of 1898 would appear almost to cover the point: "A ship shall not pay dues both as a home-trade ship and as a foreign-going ship for the same voyage, . . ." but a difficulty arises over the words "same voyage." Had the vessel in the present case not in fact loaded more cargo at Liverpool after she had discharged the Glasgow cargo and before she sailed on her foreign voyage, there seems every reason to regard the carriage of the cargo from Glasgow to Liverpool as a different and separate home-trade voyage, for otherwise she should have sailed from Glasgow as her last port of call. Mr. Justice ROWLATT expressly left open the point what would have been the position if the "Cedar Branch" had not loaded at Liverpool any cargo for a foreign destination. There can be no doubt that the present decision interprets correctly the intention of the Legislature, but that does not prevent the position being open to abuse by putting foreign-going vessels in a position where they can indulge in considerable home-trade traffic before proceeding on their foreign voyage without paying additional dues for an uncontemplated excessive use of the lighting facilities around our coasts.

Lawyers on Holiday.

[From our Special Correspondent.]

Tuesday, 5th August.

"Typical English weather," said a sardonic American, as the "Duchess of Atholl" was towed out of the Southampton Docks about 2 o'clock this afternoon, and if driving rain, squalls of wind and bursts of sunshine truly represent English weather in August, he wasn't very far wrong. Rumour alleges that the ship is an inch below her plimsoll line owing to the weight of intelligence she carries. That is a story it might be difficult to substantiate, but I *can* vouch for the fact that judges—and lawyers—*look* as light-hearted as laymen when they start off for a six weeks' holiday. We have on board no less than eight judges (Lords Dunedin, Tomlin and Macmillan, Mr. Justices Talbot, Wright, Maugham and Macnaghten, and Mr. Justice Hanna of the Irish Bench). Then we have the Attorney-General (Sir William Jowitt), Sir John Simon, K.C., Sir Boyd Merriman, nine other K.C.'s, forty-four Stuff Gownsmen, Sir Roger Gregory (President of The Law Society), and forty-nine other solicitors, two Scotch K.C.'s and three members of their Junior Bar, nine Scotch solicitors, five members of the Irish Bar, and thirteen French lawyers. Altogether, with wives, sons and daughters, we make up a party of 235. Mr. E. K. Williams, K.C., representing the Canadian Bar Association, and Mr. Walter Eckert, representing the American Bar Association, have taken the trouble to cross the Atlantic in order to accompany our party and render us every assistance. Nothing has, in fact, been left undone to ensure our comfort and to make the trip a success.

There was an impression on board that we were calling at Cherbourg, but after rounding the buoy off Cowes, giving us an opportunity of seeing the "Victoria and Albert," with the Royal Standard flying at the main, we turned eastward and steamed away for Le Havre, where we were to pick up some 150 passengers landed there by this ship on her outward passage. We arrived off the port in rather blustery weather about 8.30 p.m. and took the pilot on board, but to everyone's surprise the ship dropped anchor and there we stayed until 9 a.m. on Wednesday. I understand that, in the Captain's opinion, there was too much wind to enter the harbour and turn the ship round, and, as we had a quiet night, there were no complaints, but it is quite evident that we have lost twelve hours and are unlikely to reach Quebec on Tuesday.

Wednesday, 6th August.

We entered the harbour and picked up passengers and cargo, but didn't leave till close on 11 o'clock, and by 3 o'clock were only abreast of Alderney. At 3.30 there was a life-belt parade, and it must be admitted that with a life-belt round one's neck it is difficult to look dignified. At 11 p.m., however, we could see, far away to starboard, the light on Cape Clear, at the extreme south of Ireland, the last land we shall see for some days.

Thursday, 7th August.

A blustery day, sunshine and rain storms, but the usual deck games were in full swing. We found in our cabins this morning an ominous looking brief envelope which looked far too much like work to be pleasant. It turned out to be an appeal (covering twelve foolscap sheets) from the Secretary of "The Grand Junior Stocks Limited," representing a syndicate of junior stockholders in the Grand Trunk Railway of Canada, who appear to be disappointed at the refusal of the Privy Council to grant special leave to appeal against the decision of the Governor-General of Canada, and are claiming the sympathy, and moral support, of this delegation. The appeal is accompanied by a transcript of the arguments (covering twenty-five sheets of foolscap) and, with every sympathy for the stockholder, it is a little difficult to appreciate what useful purpose can be served by their appeal, unless it is assumed that we can induce Lord Dunedin to re-consider the judgment he delivered! Incidentally, it may be said that his Lordship seems to be thoroughly enjoying the voyage, and I fancy it would be a bold man who even whispered "Grand Trunk Railway" to him. There was a good deal of fog when we turned in to-night, and the fog-horn was kept busy during the night.

Friday, 8th August.

A bright breezy morning and the decks were alive with passengers playing games and taking exercise—Some of the higher legal luminaries concentrate on shovel-board, and are beginning to look as if they had never seen a brief—or sat through an argument. At 2.30 Lord Dunedin held a very informal reception in the smoking room, giving everyone an opportunity of shaking hands with him. Later on in the afternoon we were all invited to drink tea with Mr. and Mrs. Eckert, who with their charming daughter, gave us an advance welcome to America. This evening we found waiting for us, in our cabins, the official welcome and programme of the New York Bar Associations, their greeting being as follows:—

> "The Bar Associations of New York are glad to welcome their British and French brethren. We see in your visit the confirmation of our belief that the profession of the law has common interests everywhere. We shall do all that we can to make your stay with us pleasant, and we hope that when you go back you will recall the visit with no less pleasure than we remember ours to you six years ago."

Judging by the programme nothing seems to have been left undone to give us pleasure.

Saturday, 9th August.

The wind got up, and there was a good deal of motion on the ship, and the dinner table showed some vacancies. It seems quite cold enough for icebergs, but at present we have not sighted one.

Sunday, 10th August.

We woke up to find the sun shining and congratulated ourselves that we were, at last, going to get the weather we had promised ourselves, but we were soon disillusioned as the wind got up and kicked up a nasty sea, while, later on in the day, we ran into fog, with the result that the syren was kept going, and we were, practically, hove-to all night, the ship only moving just enough to give us steering-way.

Monday, 11th August.

Passengers began to appear for the first time, and as the day wore on things brightened up. For the first time we sighted icebergs some ten miles to the southward of us, and as the sun peeped out we had a good view of them, and very beautiful they looked, like crystal mountains. Then on the north we saw Belle Isle, and its lighthouse, and knew that we were only 739 miles from Quebec.

After dinner Sir William Bull "told a story" in the dining room to a large and interested audience. It relates to an experience of his in the latter days of his articles, the first chapter telling us of an encounter in a first-class carriage of the Chatham and Dover Railway, with a charming young lady, escaping from a cruel step-father, who in Sir William's presence, but, if he is to be believed, behind his back, cut off her golden locks and threw them out of the window, changing into the costume of a midshipman, in which disguise she successfully got past a detective at London Bridge Station. The rest of the story I expect to see dramatised, and Edgar Wallace will have to look to his laurels.

We hand over our mails to an eastward-bound ship at Father Point, 158 miles from Quebec, at 9 p.m. this evening, and it is very evident that we shall have no time to see anything of Quebec, and run some risk of being late for the garden party at Government House, Montreal, on Wednesday afternoon. The horrid suggestion is indeed made that we should don top hats and black coats before we leave the ship and face the eight hours' journey to Montreal in that costume. For myself I shall prefer to be late at the garden party.

Warranty of Authority and Non-competent Principals.

By E. O. WALFORD, LL.B.

In general an agent contracting as such on behalf of a non-existent or non-competent principal, renders himself personally liable upon the contract, *Kelner* v. *Baxter* (1866), L. R. 2 C.P. 174; but a consideration of the case of *Hollman* v. *Pullin* (1884), 1 C. & E. 254, will show that, unless there is *some* evidence upon which to fix the agent with personal liability upon the contract, the court will not hold the agent liable. Where, therefore, no such evidence can be adduced, or be inferred from the circumstances, and the agent has the authority of an existing principal, but that principal is not legally competent to make the contract, the question arises whether the agent is deemed impliedly to warrant, not merely that he had *de facto* authority; but that the principal was competent to enter into the contract. The answer to this question appears to depend upon whether any misrepresentation of fact is involved. In *Rashdall* v. *Ford* (1866), 14 L.T. 790, a railway company had issued bonds which were *ultra vires*. The secretary had written to the plaintiff stating that the company "issued, legally, common bonds." The plaintiff took up the common bonds accordingly; but, finding that the company had no power to issue such bonds, he sued the directors personally for the recovery of the moneys paid, contending that, as the bonds were void and there was no remedy against the company, the directors were personally liable. The Chancellor, in the course of his judgment, said: "The plaintiff alleged that he entered into a contract with a railway company who were incapable of contracting, on the faith of a representation that they were capable. If there had been a misrepresentation of fact by the directors—if, for example, they had stated to the plaintiff that they had not exceeded their powers—they might have been liable, and if the directors were cognisant of the secretary's letter, it was only a question of amendment" [i.e., of the pleadings]. He then repeated the secretary's letter, and said there were here two persons equally competent: one of them misrepresented the law, and the other was deemed to know the contents of the railway company's Acts. Admitting that payments made under a mistake of fact could be recovered but not those paid under a mistake of law, there was here a common mistake of law, and he refused to hold the directors liable. In *Richardson* v. *Williamson* (1871), 6 Q.B. 276, the plaintiff had lent £70 to a building society, and received a form headed with the name of the society. Under this heading followed an acknowledgment of the receipt of the moneys, signed "J. W. W. and C. L. L., Directors." Giving judgment, Cockburn, C.J., said, "By the law of England persons who induce others to act on the supposition that they have authority to enter into a binding contract on behalf of third parties, on it turning out that they have no such authority, may be sued for damages for the breach of the implied warranty of authority . . . Then, I think, upon the facts, the inference is that the defendants [the directors] *do* represent upon this instrument that they are authorised on behalf of the society to borrow money and that the society will be liable on the contract of loan. It is quite true, as the defendants' counsel contended, that the plaintiff intended to deal with the society, and the ground of the amended cause of action is that the defendants induced her to deal with the society by representing that they had authority when they had not."

Blackburn, J., expressed the view that the defendants represented that they had authority to borrow, and that the company would be bound to pay on demand, and Mellor, J., held that the directors represented that they had authority, on behalf of the society, to give to the plaintiff a binding certificate.

The dicta in the last-mentioned decision are, however, difficult to reconcile with later cases, such as *Chapleo* v. *Brunswick Building Society* (1881), 6 Q.B. 697, in which Baggallay, L.J., stated that those dealing with building societies were deemed to know that the powers of such societies were limited by their rules, and that if persons dealing with them neglected to ascertain whether those limited powers had been exceeded they must take the consequences of their own neglect. Nevertheless, the directors were held liable in damages as having represented that their principals, the society, had not exceeded their power of borrowing, a clear representation of fact. If, however, we compare this case with *Richardson* v. *Williamson*, *supra*, it will be found that in the latter case the sole point involved was that the society had no power of borrowing, owing to the omission from its rules of any express power to borrow, and Blackburn, J., expressly stated that the cause of action did not rest upon the personal signature of the directors. The remarks of Lord Sumner in *Sinclair* v. *Brougham* [1914] A.C., at p. 452, are still more difficult to reconcile with the case now under comment. Speaking of *ultra vires* transactions entered into with such a society, Lord Sumner said: "The rules and objects of the society were accessible to all. The only mistake was a mistake of law," and he concluded that persons dealing with the society must be taken to have paid their money upon the chance that everything was in order.

It will also have been noted that in *Rashdall* v. *Ford*, *supra*, relief against the directors was refused, since there was "only a common mistake of law."

The question is further complicated by the application of the doctrine of "Notice." The articles of association of a company, no less than its memorandum, are public documents, and persons dealing with the directors are deemed to be aware of the limitations imposed by the articles upon the directors' activities. If, therefore, reference to the memorandum and/or articles of association would show that the transaction was *ultra vires* the company or the directors, it would seem difficult to contend that third parties are deceived where there is no express misrepresentation of fact made by the directors. In *Beattie* v. *Lord Ebury* (1872), 7 Ch. 777, Mellish, L.J., stated the position thus: "If the person who deals with the agent is fully aware in point of fact what the extent of the authority of the agent is to bind his principal, but makes a mistake as to whether that authority is sufficient in point of law, under these circumstances I have no doubt that the agent would not be liable." He puts a hypothetical case—A sees a power of attorney, and takes legal opinion as to the power of the attorney to bind the principal. Being advised that the power is sufficiently wide for the purpose proposed, A relies upon it. It then transpires that the power is not apt to cover this particular purpose. In such circumstances, says the Lord Justice, no warranty arises that the power is good, i.e., that the attorney has a valid and effectual authority to carry through the transaction so as to bind the principal.

It is stated in "Lindley on Companies," 6th ed., at p. 351, that in most cases the limits of the authority of directors of companies are presumed to be known to the public, and, "a person who deals with directors whom he knows, or is supposed to know, to be exceeding their authority, cannot complain of them if he finds that their acts are repudiated . . . In the absence, therefore, of fraud on their part such a person will be unable to obtain redress against them." This passage is probably intended primarily to refer to acts which, although outside the scope of directors' powers, are not *ultra vires* the company. It might, however, well happen that the powers of the directors, e.g., to borrow, were co-extensive with the powers of the company itself, but that by the memorandum of association the company's powers as to borrowing were limited. If, therefore, the directors exceed those powers, the persons dealing with them must know, or be deemed to know, that the directors have acted in excess of their powers.

There is, therefore, as we have mentioned above, difficulty in contending that the directors are liable upon an implied warranty of authority where a perusal of the memorandum

would disclose the fact that the company had no power to enter into the contract or transaction in question. In this connexion the dictum of Lord HALDANE in *Pacific Coast Coal Mines* v. *Arbuthnot* [1917] A.C. 607, is worthy of note: "A stranger must be taken to have read the general Act under which the company is incorporated and also to have read the articles of association."

But, as the authorities stand, it is by no means easy to decide how the exact limits of constructive notice are to be determined. In *West London Commercial Bank* v. *Kitson*, 13 Q.B.D. 360, it was laid down that persons dealing with a company governed by a private Act of Parliament are not bound, at their peril, to inform themselves of the contents of that Act. Consequently, the issue by the directors of a negotiable instrument which was void, being *ultra vires* the company, rendered those directors liable upon an implied warranty that the private Act authorised the issue of a valid negotiable instrument in the form in which it was put forward by the directors. In the case last mentioned the defendant directors accepted a bill on behalf of a tramway company which was governed by two private Acts, "the terms of which no one knew, or was bound to know, but they themselves, and they knew that by those Acts of Parliament they had no authority to accept for the company." The acceptance "was meant to represent that the company had such power, and that the defendants had such authority. Whether there was in fact such power or not depended upon the private Acts of Parliament of the company, and therefore I think that this acceptance amounted to a statement that the private Acts of Parliament gave the company power to accept this bill, and that the defendants were authorised to accept it for the company. That was a statement of fact to the persons who should discount the bill" (per BRETT, M.R.). It will be noted that the learned Master of the Rolls stated quite definitely that the representation was one of fact, although the question of the capacity of the company might depend upon the construction of an obscure and difficult section of one of the relevant Acts. BOWEN, L.J., was even more emphatic, stating that "a representation that I have a private Act of Parliament which gives me a certain power is just as much a statement of fact as the statement that I have a copy of 'Johnson's Dictionary.'"

Whilst the matter is not free from difficulty, it would appear that the following propositions are deducible from the cases:—

(*a*) Where the legal capacity of the principal is represented as existing by reference to a specific private Act of Parliament or a document not produced or offered for inspection there is a representation of fact, and the agent will be liable for breach of warranty of authority.

(*b*) Where, however, the capacity of the principal depends upon—

(i) General Acts of Parliament or memoranda or articles of association of companies or other matters of which the party has notice (express or implied), or the general law of the country; or

(ii) Private Acts of Parliament or documents which are produced or offered for inspection;

so that the third party has the facts before him, or is deemed to possess the means of ascertaining the facts, and it is represented that the Acts, memoranda or articles or other documents or the general law of the land confer upon the principal power to effect the contract or other transaction, there is a mere representation of law, which the other party may accept or reject as he thinks fit; and the agent is under no liability.

It is in any case clear that where the representation is as to the *existence* of a private Act or document giving the requisite power, this is a representation of fact; but where the representation involved is that the words of a certain Act or document are capable of a certain interpretation, this is a pure representation of law upon which the party dealing with the agent must inform himself accurately, or bear the consequences.

It has been suggested to the writer that the well-known case of *Yonge* v. *Toynbee* [1910] 1 K.B. 215, is an authority for the view that an agent is deemed in all cases impliedly to warrant the legal capacity of his principal to enter into the transaction to which the agent purports to bind him. Considerations of space prevent us from discussing this point in detail, and it must suffice here to say that the decision in question is not, in the writer's view, an authority for this wide proposition. If the point is one which interests our readers, it may be possible to consider it more fully in a later issue.

The Coal Mines Act, 1930.

With special reference to other recent Mining Legislation.

By DAVID BOWEN, Barrister-at-Law,
(*Formerly Head of the Mining Department, the University of Leeds*).

I.

JUDGING by the tendency of legislation, with respect to mines in this country, the passage of time seems to emphasise more and more the essential soundness of the recommendations of the Committee presided over by Sir LESLIE SCOTT, K.C., M.P., contained in their third report (Command Paper 156), published in 1919. One of their main recommendations was the establishment of a Sanctioning Authority having power to make orders for the compulsory acquisition or working of minerals, or of rights in, over, or under land affecting the working of such minerals. Another was that there should be a Government mining department having initiative, advisory and executive powers, including power to entertain and examine applications for leasing or working minerals, having regard to the national interest. Another was that where the best development of the nation's mineral resources is impeded by the rights of private property, an application should be made to the Sanctioning Authority to obtain compulsory powers to deal with the situation on fair terms to the owner; and that in general the Sanctioning Authority should override any legal difficulty which interferes with the grant of such leases or other working powers as, in their discretion, they consider desirable in the national interest. And still another was that legislative effect should be given to the principles embodied in the proposed arrangement between the railway companies and colliery owners in England and Wales for amending the fasciculus of clauses relating to minerals and the working of minerals contained in the Railway Clauses Act, 1845.

Legislative effect has already been given, in substance, to these recommendations. Thus, by the Mining Industry Act, 1920, there was established the Mines Department as a department of the Board of Trade, to which was transferred all the powers and duties in relation to mines and the mining industry, formerly exercised by the Home Office. By the Mines (Working Facilities and Support) Act, 1923, the Sanctioning Authority proposed by the Leslie Scott Committee was in principle constituted by the provision that the Railway and Canal Commission (constituted by the Railway and Canal Traffic Act, 1888), upon reference to it of matters by the Board of Trade (such matters including applications for the right to work minerals or for ancillary rights unobtainable upon fair terms by private arrangement), may make orders granting the rights specified in the applications to the Board of Trade whereupon such rights should vest in the applicants, subject to the terms of the order in the particular case. And the same Act gave statutory effect to the proposed arrangement above mentioned between railway companies and colliery owners. By the Mining Industry Act, 1926 (which by its preamble is described as an Act for facilitating the reorganisation of the coal mining industry), it was provided that certain proposals for the amalgamation of colliery undertakings may

be submitted to the Board of Trade, which should, if a *prima facie* case is made out, refer such matters to the Railway and Canal Commission, and that the Commission (if satisfied in each case that the proposal conforms to the requirements of the Act, and after hearing all objectors entitled to be heard) may confirm such proposals or schemes with or without such modifications as the Commission think fit, or may refuse to confirm such proposals. And by the same Act the provisions of the Act of 1923 were extended in an important respect. The same Act contains other provisions of an important character relating to the welfare of miners, recruitment for employment in the coal mining industry, and the voluntary establishment of profit-sharing schemes.

Now, by the Coal Mines Act, 1930, which received the Royal Assent on August 1, the reorganisation of the industry is prescribed by provisions which settle the lines on which that reorganisation is to proceed. It establishes statutory schemes—a central scheme operative for the country as a whole, and district schemes respectively applicable to each mining district—for regulating and facilitating the production, supply and sale of coal; establishes a Coal Mines Reorganisation Commission, with discretionary power as to the initiation and promotion of amalgamations of collieries; and provides for the constitution of a Coal Mines National Industrial Board with functions similar to those of the National Wages Board for the railways. For the first time, the existence of the Mining Association of Great Britain (representing the colliery owners) and of the Miners' Federation of Great Britain receives statutory recognition. The industry remains in the control of the owners of the individual units, subject to the co-operative and co-ordinative functions of the central council and district executive boards respectively to be constituted by the central scheme and district schemes.

The co-operation thus established as between collieries in any district and as between districts must necessarily, it is thought, induce reorganisation in the industry by force of economic necessity, if for no other reason. The experience to be gained as the result of the operation of these schemes should provide answers to many important questions which have been the theme of political and economic discussions for many years. Among such questions, the following may be some of the more important:—

(1) In what circumstances and to what extent are colliery amalgamations possible and beneficial?

(2) Is it advantageous or otherwise to amalgamate collieries with undertakings other than collieries?

(3) What savings, if any, can be effected in distribution and administrative costs by co-operative marketing and selling schemes of this extensive character?

(4) How, and to what extent, are these matters affected by (*a*) the element of compulsion introduced by this Act, and (*b*) the consideration that each mining district is to be treated as a productive and distributive unit functioning through the central scheme and central council in co-operation with every other district?

(5) To what extent, if at all, does an organisation and control of this character sterilise or develop individual initiative and enterprise? and

(6) Is it desirable that reorganisation or control of a similar or different character should be introduced or applied to any other of the main industries of the country?

There can be no doubt that these and similar or other questions are very much in the minds of those connected with the mining industry, for economic consequences inevitably follow in the train of such legislation, and new problems have to be faced. The desirability, if not the necessity, for the element of compulsion in matters of this kind, having regard to present-day conditions, is the *raison d'etre* of the recent legislation above mentioned.

This and succeeding articles which it is intended to publish are reprinted or adapted by Mr. Bowen by arrangement with the proprietors of the *Colliery Guardian* from fuller and more technical articles which he is contributing week by week to that journal.

Company Law and Practice.

XLI.

The Payment of Dividends.

Dividends, as a general rule, cannot be paid out of capital. There is one exception to this rule, and that is contained in s. 54 of the Companies Act, 1929, under which, where shares are issued to raise money to defray the expenses of the construction of works or buildings or the provision of any plant which cannot be made profitable for a lengthened period, interest may be paid and charged to capital as part of the cost of construction of the work or building, or the provision of plant. This power is hedged about with numerous restrictions, to which it would be superfluous to refer here.

But it is not always clearly understood that a dividend may be payable otherwise than out of the profits arising from the ordinary trading operations of the company. There may well be a capital profit made by the company, and where there is such, it may, given certain circumstances, properly be distributed by way of dividend. This is very neatly and clearly illustrated by the case of *Lubbock* v. *British Bank of South America* [1892] 2 Ch. 198.

In that case the defendant company, which had an issued capital of 100,000 shares of £10 each, on which £5 had been paid up, sold its banking business in Brazil, which was a part of its undertaking, for £875,000. It also covenanted not to compete with the purchaser in Brazil, but subsequently purchased a release of this covenant for £75,000. Thus, after reckoning the amount of the paid-up capital, £500,000, and deducting the £75,000 paid for the release of the restrictive covenant and various other amounts incidental to the transactions, the defendant company found itself £205,000 to the good on this deal.

The directors of the defendant company proposed to treat this as profit, and carry it to the profit and loss account, and an action was thereupon brought with the object of restraining the company from doing so, and from dealing with or otherwise distributing this sum as income. But Chitty, J., as he then was, held that the defendant company was entitled to do this, on the ground that anything over and above the capital of the company is profit, and may be dealt with accordingly.

But it is clear that it is not possible to distribute by way of dividend unrealised capital appreciation, without any reference to the company's balance sheet. In *Foster* v. *New Trinidad Lake Asphalt Co. Limited* [1901] 1 Ch. 208, the defendant company had taken over, on the purchase of the undertaking of an old company, certain promissory notes considered to be valueless. Subsequently a large sum was paid in respect of these promissory notes, and it was proposed to distribute the whole of this by way of dividend. The point to be decided was, as Byrne, J., put it, whether such sum might be divided as profit, without regard to the then present value of the total capital assets, and whatever the result of the year's trading might be; and the learned judge held that it could not be so divided. But he made it patent that it was not necessarily incapable of distribution, in a passage which seems to set out the position succinctly. "I must not, however," he says "be understood as determining that this sum or a portion of it may not properly be brought into profit and loss account or be taken into account in ascertaining the amount available for dividend. That appears to me to depend upon the result of the whole accounts for the year. It is clear, I think, that an appreciation in total value of capital assets, if duly realised by sale or getting in of some portion of such assets, may in a proper case be treated as available for purposes of dividend . . . If I rightly appreciate the true effect of the decisions, the question of what is profit available for dividend depends upon the result of the whole accounts fairly taken for the year, capital, as well as profit and loss, and although dividends may be paid out of earned profits in proper cases, although there has been a depreciation of capital, I do not think that a realised accretion

to the estimated value of one item of the capital assets can be deemed to be profit divisible amongst the shareholders without reference to the result of the whole accounts fairly taken."

The principle set out in the above-mentioned cases, that a realised capital profit may be distributed, was applied to a company governed by the Companies Clauses Consolidation Acts in *Cross* v. *Imperial Continental Gas Association* [1923] 2 Ch. 553.

It must always be borne in mind, however, that, in so far as they are not inconsistent with the statutes, the articles of association of a company are binding upon it, and it may be that the articles prohibit certain distributions of the type referred to above. For instance, at one time it was common practice to have an article to the effect that no dividend should be paid otherwise than out of profits arising from the business of the company, and indeed, Table A of 1862 contained such a provision.

Now in the case of a realised capital profit this will not usually be a profit arising from the business of the company. For instance, if a mining company sells a mine at a profit, such an article would prevent the distribution by way of dividend of the profit so made unless (which is unlikely) the business of the company included the buying and selling of mines.

(To be continued.)

A Conveyancer's Diary.

Assurances effected by Husband for Wife and Family.

A recent case which calls attention to the statutory provisions regarding policies of assurance effected by a married man for the benefit of his wife and family is *Re Collier* [1930] 2 Ch. 37.

In 1876 a husband during the lifetime of his wife took out a policy on his life with an assurance company whereby, after a recital that the assured "for the benefit of his wife" in pursuance of the Married Women's Property Act, 1870, had proposed to the company to effect an assurance on his own life for £500 in consideration of the payment of the premiums during the life of the assured, the company covenanted for payment of the sum of £500 to the executors, administrators and assigns of the assured. In 1918 the wife died and in 1929 the husband died without having married again. In 1891 the husband had been adjudicated a bankrupt and had obtained his discharge as from April, 1899.

In these circumstances the question arose whether the policy moneys belonged to the personal representatives of the deceased wife or to the trustee in bankruptcy of the husband.

Clauson, J., held that upon the true construction of the policy and s. 10 of the Married Women's Property Act, 1870, the interest in the policy moneys vested in the husband, and upon his adjudication in the trustee in his bankruptcy, subject to the trust in favour of his wife which enured for her benefit only if she survived her husband; with the result that, as the wife died before the husband and before the fund fell into possession, the policy moneys belonged and were payable to the trustee in bankruptcy.

The policy in question in that case was effected under s. 10 of the Married Women's Property Act, 1870, but the result would have been the same if s. 11 of the Act of 1882 had applied, and for the present purpose it will be better to refer to the provisions of the later Act which are still in force.

By s. 10 of the Act of 1882 it is enacted that a policy of assurance effected by any man on his own life expressed to be for the benefit of his wife or his children, or any of them, shall create a trust in favour of the objects therein named and the moneys payable under such policy shall not, so long as any object of the trust remains unperformed, form part of the estate of the insured or be subject to his debts. Provision is made for the appointment of trustees and for the personal representatives of the assured acting as trustees if no others are appointed.

The first point which arose in *Re Collier* was as to the effect of that provision (or rather the corresponding provision in the Act of 1870) where the wife of the assured dies after the policy has been effected and he does not re-marry.

In order to decide that point it is necessary to consider what the real position is under such a policy and what interest the husband and wife respectively have in the policy moneys.

The position was defined by the Court of Appeal in *Cleaver* v. *Mutual Reserve Fund Life Association* [1892] 1 Q.B. 147.

The facts in that case were that a husband effected a policy of assurance in favour of his wife who murdered her husband and the defendant company sought to evade payment of the policy moneys on the ground of public policy. The Court of Appeal (reversing the Divisional Court) held that as the trust created by the policy in favour of the wife had become incapable of being performed by reason of her crime, the insurance money formed part of the estate of the insured and that as between his personal representatives and the insurers no question of public policy arose to afford a defence to the action.

I am not concerned here with the question of public policy but with the exposition of the law as affecting policies of this kind.

It is clear from the judgments that the wife, in that case, being excluded from taking any benefit, the position was the same as that which arose in *Re Collier* by reason of the wife having predeceased the husband. In both cases the trust in the wife's favour had become impossible of performance. In the course of his judgment, Esher, M.R., after reading the pertinent provisions of s. 11 of the Act of 1882, said: "Under this provision, no trustee having been appointed, the policy vests in the executors who are trustees for the purposes of the trusts in favour of the wife, but only so long as the object of the trust remains unperformed. When the object of the trust no longer remains unperformed, the policy is to form part of the estate of the insured. Suppose the wife had died before the husband, the defendants could not have said that they would not continue the policy or receive any more premiums and that the policy was at an end. In that case the performance of the trust for the wife would have become impossible . . . then by necessary implication the policy forms part of the insured's estate."

Applying that principle, Clauson, J., held in *Re Collier* that the policy moneys belonged to the husband subject only to the trust in favour of the wife, and, the latter trust having failed, the consequence was that the trustee in bankruptcy of the husband was entitled.

It was contended, however, in the case, that the trust in favour of the wife was not impossible of performance but might be carried out because it was an absolute trust enuring for her benefit immediately upon the policy being effected so that on her death her interest passed to her representatives to whom the moneys must be paid when the husband died.

That point seems to have been inferentially decided in *Re Browne's Policy* [1903] 1 Ch. 188. In that case a husband effected a policy on his own life under s. 11 of the Married Women's Property Act, 1882, expressed to be "for the benefit of his wife and children." The wife died and the assured married again and there was a child of the second marriage. The second wife survived, and the question was whether the policy must be deemed to be for the benefit only of the wife living at the date when the policy was effected and the children by her. In the course of his judgment, Kekewich, J., pointed out that, as a general rule, when a man spoke of his wife he must be taken to mean his then wife and not any woman whom he might afterwards marry, and he added: "But in construing an instrument intended to make provision for a wife after the husband's death, this seems to lose weight and is countervailed by the consideration that he in all probability intended to provide for her who survived him, and for that

reason stood in need of provision." It was therefore held that the second wife and her child were entitled to participate jointly with the children by the first wife.

Again, in *Robb* v. *Watson* [1910] 1 I.R. 243, it was decided that the power conferred by the Act did not give a husband the power to confer the benefit of the policy upon a wife unless she survived him, and that the interest of the husband subject to the trust in favour of a surviving wife was an interest capable of assignment by him during the lifetime of the wife.

Accordingly, in *Re Collier* the interest of the assured under the policy passed to the trustee in bankruptcy of the husband, subject only to the trust for the benefit of the wife in the event of her surviving him, and as that event did not happen the trustee in bankruptcy was entitled to the money.

In an earlier Irish case, *Prescott* v. *Prescott* [1906] I.R. 155, a wife had effected a policy on her own life in favour of her husband under the Act of 1882, and, the husband having predeceased the wife, it was held that the trust in his favour was not dependent upon his surviving the wife and that his executors were entitled to the money. Perhaps that decision may be supported on the ground that the husband had paid the premiums, but, however that may be, Bennett, J., said that if the decision in that case was inconsistent with that in *Robb* v. *Watson* he preferred the latter and followed it.

Landlord and Tenant Notebook.

Compensation for Disturbance: 2.—The Measure.

Provisions as to the measure of compensation which have been judicially considered are those in sub-ss. (6), (7) (*b*) and (8) of s. 12 of the statute (Agricultural Holdings Act, 1923). The basic principle is that the amount is to represent loss and expense directly attributable to quitting, such as the tenant may unavoidably incur in connexion with sale or removal of household goods, etc., farm produce and farm stock. That price is not necessarily the same thing, as value might be said to be a commonplace; nevertheless, the point has been emphasised in two Scottish decisions: *Williamson* v. *Stewart* [1912] S.C. 235, and *Keswick* v. *Wright* [1924] S.C. 766. In the latter, a sheep farming tenant who was moving to a holding with "bound" flocks sold his old stock by auction and claimed the difference between the price realised and their value on the farm as a going concern. The landlord argued that the tenant should not have sold, but the court had no hesitation in negativing this contention. As one of the judges observed, a tenant might be moving to a wholly arable farm. This case was distinguished in *MacGregor* v. *Board of Agriculture for Scotland* [1925] S.C. 613, in which arbiters valuing a crop before harvest, pursuant to the lease, made miscalculations which were discovered afterwards; the tenant's claim for the difference failed because the loss was not directly attributable to his quitting.

More difficulties have arisen in the application of the latter part of sub-section (6), which, "for the avoidance of disputes," provides that the amount shall be computed at a year's rent unless it be shown to be more, in which case an amount not exceeding two years' rent may be awarded. In *Minister of Agriculture and Fisheries* v. *Dean* [1924] 1 K.B. 851, the question was whether a tenant who had in fact suffered no loss could claim a year's rent by virtue of this provision. The Department, as tenants, had sub-let; the sub-tenancies expired with the notice to quit; the sub-tenants having no claims, the Ministry altruistically announced its intention of dividing the compensation among them. This was frustrated by the decision of the court to the effect that the disputes to be avoided were those in which there was something to dispute. A further illustration of the working of this machinery was provided, in Scotland, by *M'Harg* v. *Speirs* [1924] S.C. 272, in which the tenant made a claim but only succeeded in proving loss represented by less than a year's rent. The landlord unsuccessfully contended that by launching his claim and going to proof the tenant had exposed himself to the possibility of an award of less.

One of the last sub-sections, sub-s. (8), has caused the courts some bewilderment, not so much from any vagueness in its language as from the improbability of any effect ever being given to what it provides. This sub-section reduces the amount in cases when the tenant has two or more holdings, not necessarily held of the same landlord, and is moving to one he is not called upon to quit. The reduction is to represent the amount, if any, by which the loss and expense are reduced accordingly. The Court of Appeal considered this sub-section in *Westlake* v. *Page* [1926] 1 K.B. 298, C.A., and ruled that it did not apply when the tenant was moving to a place of which he was owner and not tenant; but both Bankes, J., and Scrutton, L.J., said they could not visualise a set of facts to which the provision would apply. As Bankes, L.J., pointed out, however, it is also difficult to say that a provision in an Act of Parliament can have no meaning at all; and he emphasised the qualification "if any."

The tenant who intends to make a claim must, by sub-s. (8) of section 12 of the Act referred to, give the landlord a reasonable opportunity of valuing things he proposes to sell before he sells them; failing this, the amount to which he is entitled will be reduced. What is a reasonable opportunity is, of course, a question of fact; the effect of such cases as have come before the courts is that arbitrators should use their common sense according to the circumstances before them. In *Barber* v. *M'Douall* [1914] S.C. 844, the court said that to comply with this requirement it was not always necessary for the tenant to advise the landlord of steps taken; in *Dale* v. *Hatfield Chase Corporation* [1922] 2 K.B. 282, C.A., the case was remitted to the arbitrator for a finding on this point, and subsequently it was pointed out that notice of the sale or absence of such notice were not conclusive either way.

Our County Court Letter.

BREACH OF COVENANT AND RENT RESTRICTION.

In *Greenwood Estates Co., Ltd.* v. *Broadhead*, recently heard at Leeds County Court, the plaintiffs claimed possession of premises by reason of a breach of a covenant not to permit the same to be used in any other manner than as a mantle sales shop and showrooms. The defendant's case was that (1) he had used the premises for sixteen years as a dwelling house and that his two children had been born there; (2) no secret had been made of the fact, as the plaintiffs had even altered the upper rooms to make them more habitable; (3) there had not been mere acquiescence, but actual encouragement in such use of the premises, and at this length of time the plaintiffs were estopped from setting up the breach; (4) even though the premises had become very valuable, they were still within the Rent Restriction Acts. The plaintiffs' case was that a wrongful use of the premises as a dwelling-house did not make the defendant a statutory tenant. His Honour Judge Woodcock, K.C., observed that the defendant had committed no wrongful act, as the plaintiffs were fully aware of the circumstances, and had given their tacit approval. Their acquiescence therefore prevented them from claiming a forfeiture for the breach, but the issue was whether the letting had been altered from business to domestic premises. By implication there had been a licence (which was revocable) for user as a residence, but it did not follow that there had been a waiver of the restrictive covenant. Judgment was therefore given for the plaintiffs, with costs, with a stay of execution pending notice of appeal, and thereafter until the hearing of the appeal.

This decision followed *Williams* v. *Perry* [1924] 1 K.B. 936, in which the plaintiff claimed the balance of rent, and the defendant counter-claimed certain amounts overpaid contrary to the Rent, etc., Acts. In 1919 there had been a verbal letting as business premises, but the defendant went into residence in breach of the agreement, and the county court judge at Bow held that he was nevertheless protected by the above Acts, as the premises had been partly used as a dwelling-house since 1914. This decision was reversed in the Divisional Court, where Mr. Justice Swift laid down that (1) a person who improperly occupies, for sleeping purposes, a room let as a workshop, is estopped from saying that he has given the characteristic of a dwelling-house to the premises, (2) a dwelling-house may be converted into business premises equally by agreement as by structural alteration. Mr. Justice Acton agreed that the premises were outside the Acts, and the appeal was therefore allowed.

The existence of a written document disposes of questions of fact, and raises a purely legal issue, as shown by *Hicks* v. *Snook* (1929), 73 Sol. J. 43. The contract was there contained in a deed, which described the property as a "shop and messuage," but there was no restrictive covenant and the plaintiff had always lived on the premises. The rent had been increased, but the plaintiff contended that he was a statutory tenant, and he therefore claimed a refund. His Honour Judge L. C. Thomas held that the property was business premises, and therefore outside the Acts, and the decision was upheld by Mr. Justice Shearman and Mr. Justice Swift, on the ground that a Divisional Court could not interfere on a finding of fact. The Court of Appeal decided, however, that the question was one of law, and Lord Justice Scrutton pointed out that the plaintiff was entitled to reside on the premises, which were within the Acts. Lord Justice Greer agreed, and the present Lord Chancellor (in reliance on the description of the property in the lease) concurred in allowing the appeal.

See further an article entitled "Rent Restriction" in our issue of the 19th January, 1929 (73 Sol. J. 36).

Practice Notes.

THE REMUNERATION OF ESTATE AGENTS.

II.

(*Continued from* 74 Sol. J. 333.)

In *Langley* v. *Pepper*, recently heard at Birmingham County Court, the plaintiff claimed £14 as the balance of the proceeds of sale of shop fittings, and the defendant claimed to set off an equal sum as his commission on the sale of the plaintiff's shop and premises. The plaintiff's case was that the defendant was acting on behalf of a multiple shop company, and had approached her with a view to her giving up her shop in favour of another shopkeeper, who had agreed to give up his own premises, provided the multiple shop company could find him alternative accommodation. The plaintiff consented to vacate her premises, on receipt of £235 from the new tenant, and she then instructed the defendant to sell her fittings. The defendant deducted commission, however, not only for the sale of the fittings, but also in respect of the negotiation of the transfer of her premises, and the plaintiff contended that this was the first intimation of any claim for such commission, or even that the defendant was acting on her behalf. The defendant's case was that (*a*) there was an express verbal agreement that he should be paid commissiny on the sale of the premises, (*b*) alternatively there was an implied agreement to that effect, as commission was invariablo payable by the person disposing of premises, and not by the person taking them, so that (*c*) he had no claim against either the multiple shop company, or against the new tenant, although the latter was liable for commission on the premium received by him upon giving up his original premises to the multiple shop company. The plaintiff disputed an item of £2 in respect of a year's rent of the premises, on the ground that she would not receive the latter, but the defendant contended that he was entitled to such commission on an assignment of a lease, and his claim should not be defeated by a conveyancing technicality, viz., that the transaction would be carried out by a surrender and re-grant of a quarterly tenancy. His Honour Judge Dyer, K.C., held that the relationship implied that the plaintiff would pay for the services rendered, unless the presumption was rebutted by the circumstances. If, however, auctioneers approach a client, with a view to his removing in order that a bigger client may obtain possession, the ordinary implication is rebutted. In the absence of an express agreement, the defence therefore failed, and judgment was given for the plaintiff for the amount claimed.

THE EMPLOYMENT OF YOUNG PERSONS ABROAD.

A two-clause statute intituled the Children (Employment Abroad) Act, 1930, which recently received the Royal Assent, extends to persons under the age of eighteen years the provisions of the 1913 statute of the same name. It also extends the operation of section 20 of the Children Act, 1908, to "young persons" of the age of fourteen years or upwards and under the age of eighteen.

This statute, the passing of which does not seem to have excited much public notice, should add greatly to the efficacy of the earlier legislation. By the Children Act, 1908, a person under the age of fourteen is a "child," becoming after fourteen and while under sixteen a "young person." Section 20 of that Act gives power to the police, under magisterial authority, to detain children and young persons in places of safety for their own protection. The Act of 1913, which was aimed at stopping the sending of children and young persons abroad for the purpose of singing, playing, performing, or of being exhibited for profit, also incorporated s. 20 of the Act of 1908. The new Act, therefore, extends the age of protection in both cases to young persons under eighteen years of age.

Correspondence.

The Dower Act and the New Legislation.

Sir,—By a mischance I have only this week seen Mr. Farrer's article on this subject in your issue of the 7th July.

Mr. Harry Knox, in his letter on the subject on the 22nd March last, questioned the accuracy of the conclusion at which Mr. Farrer had arrived, and suggested it would be interesting to have the effect of s. 38 (2) (*a*) of the Interpretation Act more fully dealt with.

Mr. Farrer in part I of his recent article, only refers to the Interpretation Act indirectly. He says "The repeal repeals what the Act gave—this defeasance power—and does not 'revive' what the common law—not the Act—gave, namely, the common law title which was in force and in existence at the date of the repeal."

The above paragraph can only mean that the common law title which existed before 1834 continued unaltered after the Dower Act came into operation. We know, however, that Mr. Farrer admits that an absolute right was converted into a contingent right, but this admission takes away the foundation upon which Mr. Farrer bases his arguments. Any lawyer of less eminence than Mr. Farrer would be scoffed at if he suggested that a law had been unaltered if at one time it gave a widow dower out of all the lands her husband had held during the coverture or of which he died possessed even if he had sold them or disposed of them by will, and at a later date

only gave her dower out of lands of which the husband died intestate.

It is true that many legal writers have treated the Act, as Mr. Farrer does, as one to enable a husband to defeat a wife's dower: but having regard to the suggested effect of the repeal of the Act, it is necessary to see whether this is a true description of the Act. At the time the Act was passed circumstances had changed greatly since early feudal times. The number of freeholders had enormously increased, and the law of dower had become a public nuisance. A sale free from any claim for dower could only be effected by means of a fine in which the wife was separately examined, entailing delay, expense and inconvenience, and although many sales took place where the wife's concurrence was not obtained on account of the expense involved in levying a fine, titles were defective during the life of the wife of the vendor. To put an end to this unsatisfactory position the Dower Act was passed, and that enacted plainly and without any ambiguity that "No widow shall be entitled to dower out of any land which shall have been absolutely disposed of by her husband in his lifetime or by his will."

Dower therefore ceased to exist out of certain lands. There was nothing for the husband to defeat. This is obviously the case with regard to land disposed of by will. It became an effective disposition not by reason of the husband having "defeated" the right, but because the right did not exist.

Mr. Farrer refers to the Dower Act as one giving a husband power to defeat his wife's right to dower. Possibly a more correct description would be that it was one providing that no widow should have dower except out of any lands of which her husband died intestate.

The matter can be put very shortly:—

Could the common law, before the Dower Act came into force, give a widow dower out of lands which her husband had disposed of in his lifetime?

Could the common law, after the Act came into operation, give a widow dower out of such lands?

As the answer to the first question must be in the affirmative, and that to the second in the negative, it follows that something which existed at one time had ceased to exist. It also follows that a part of the common law which at one time had been in force was no longer in force, and if by reason of the repeal of the Act the common law could again give a widow the same right to dower that it gave before the passing of the Act, so that a widow became entitled to a right which she did not possess before the repeal, it is obvious that some power of the common law which had ceased to operate had revived, and that the widow had something that was not previously in existence: but this cannot be the case, seeing that s. 38 (2) (*a*) of the Interpretation Act provides that when an Act repeals any other enactment unless the contrary appears, the repeal shall not revive anything not in force or existing at the time the repeal takes effect.

In his recent article Mr. Farrer states that it is for those asserting that there was no dower to prove their case, and in support of that view points out that a wife got dower out of an intestate's lands after 1833. No one, however, has suggested that the common law was affected by the Dower Act so far as regarded the lands of which the husband died intestate, but as I have shown, the powers of the common law were abolished with regard to any other lands, and it is for Mr. Farrer to prove that at the time when the Dower Act was repealed a widow was entitled to dower out of lands disposed of by her husband in his lifetime or by his will, and this obviously cannot be proved.

Shortly after Mr. Farrer's first article appeared there was one in "A Conveyancer's Diary" supporting Mr. Farrer's views. I think that if your contributor (whose articles are of so much assistance to us) would deal with the matter again, it would be appreciated by the profession generally. The point is of vital interest to all.

Walbrook, E.C.4, W. H. Walmsley.
31st July.

Solicitors Bill, 1930.

Sir,—May I appeal to my professional brethren to cease to cavil at the reasons which have influenced The Law Society in promoting their Bill in Parliament, and to apply their minds and their pens in making constructive suggestions for its improvement, both from the point of view of the profession and the public. No doubt, as has been urged in your columns, 99 per cent. of our profession are strictly honest, but it is equally clear that the defalcations of the remaining 1 per cent. have caused great loss and suffering, and that the public mind and Parliament have been disturbed to such an extent that it is obvious some action must be taken either with the concurrence and co-operation of the profession or without it. In my view, the profession now have a golden opportunity of putting their house in order, which they would be foolish to miss, but no doubt the remedies as embodied in the proposed Bills are open to considerable criticism. The Long Vacation gives a special opportunity to members of the profession who have concrete suggestions to make for the improvement of The Law Society's Bill to put them forward.

I was very interested in reading the address of the President of the Manchester Law Society, reported in your last issue, and particularly to his reference to the New Zealand Act dealing with a similar problem. Ever since I have studied this Act and the comments on same in your issue of 30th May last, I have thought that legislation on similar lines might well be considered here, and I still think that The Law Society and its advisers might well consider whether their proposed Bill could not be re-modelled to follow the New Zealand legislation, of course, with such modifications and additions as our local conditions make desirable.

As the Bill is now apparently "dead" by reason of the end of the Parliamentary Session, may I commend the above to The Law Society and Sir John Withers as a concrete suggestion to which they might well devote a little time and attention to see if it is not even now possible for them to join forces and unite in drafting a new Bill which could be presented to Parliament next Session with the support of the profession as a whole?

2, John-street, W.C.1. Herbert S. Syrett.
11th August.

International Law Association.

Sir,—As already announced, the 36th Conference of the International Law Association will be inaugurated on 2nd September in the Bar Association Building, New York, under the auspices of the New York Branch of which The Hon. John W. Davis, formerly Ambassador to this country, is President and Chief Justice Charles Evans Hughes (formerly member of the Permanent Court of International Justice) is Honorary President.

At the inaugural meeting it is hoped that Lord Tomlin will be able to take the place of Lord Blanesburgh (President of the Executive Council), whose absence through ill-health is much regretted.

Wyndham A. Bewes,
Hon. Sec.

The Temple,
London, E.C.4.
13th August.

Books Received.

The Law of Negligence. Legal Liabilities as covered by Public Liability Policies. J. B. Welson, LL.M., Barrister-at-Law. 1930. Demy 8vo. pp. xiv and (with Index) 108. London: Sir Isaac Pitman & Sons, Ltd. 5s. net.

Building Societies Year Book, 1930. Official Handbook of the National Association of Building Societies. Compiled and edited by George E. Franey, O.B.E. Large crown 8vo. 438 pp. London: Reed & Co., Publishers of "The Building Societies Gazette," 37, Cursitor-street, E.C.4.

POINTS IN PRACTICE.

Questions from Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to The Assistant Editor, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Appointments of New Trustees—Vesting Declaration—Undivided Share in Proceeds to Arise on Sale of Land.

Q. 1987. Does s. 40 of the Trustee Act, 1925, apply to an undivided share in the proceeds to arise from the sale of land (whether vested in trustees other than the parties to the appointment or not) and in the rents and profits until sale? It seems to me that, though the undivided share is not itself land (see s. 68 (6)), it may well be an estate or interest in land within the meaning of s. 40 (1) (*a*), and I notice there is no express provision in s. 40 (4) to exclude it?

A. We agree that an undivided share in the proceeds of sale of land and in the rents and profits thereof pending sale are interests or estates in land within the meaning of T.A., 1925, s. 40 (1). Land for the purposes of this section includes any benefit derived from land (T.A., 1925, s. 68 (6)). As the matter is not perhaps free from doubt it might be prudent to have an express assignment.

Recovery of Tithe Rent-charge.

Q. 1988. Mr. X has paid tithe for the two years ending 1st April last, on land of his own, and also on a portion of land belonging to an adjoining owner, and included in the same apportionment. The adjoining owner sold his land after the 1st April, and in reply to applications for contribution by Mr. X, merely says he has sold the land. According to "Stones' Justices Manual," 62nd ed., p. 1661, proceedings can be taken before justices, but doubt is felt as to whether "landowner" means the owner at the time proceedings are taken. "Halsbury" (vol. 7, 1909), at p. 472, para. 962, indicates another course, but it is not clear whether the action would lie against the former owner after sale of the land. What steps can Mr. X take to recover payment of the amount due in the circumstances?

A. Mr. X should apply to the present owner of the adjoining land, and should take proceedings against him in default of payment. The Tithe Act, 1836, s. 67, and the Tithe Act, 1891, s. 2 (9), provide that the tithe issues out of the land, and arrears may be recovered from the owner for the time being. It will then be open to the present owner to recover the amount from the former owner, as the contract for sale and purchase doubtless provided for an apportionment of outgoings, and this should have been done on completion.

Rent of Combined House and Shop.

Q. 1989. A has been in continuous occupation for over twenty-five years of a leasehold house of which the front portion is and always has been used as a greengrocer's shop and the rest as a private dwelling-house. The rent (£40 per annum) is paid half-yearly on the 9th June and 9th December. As far as B, the present owner, to whom the property was bequeathed—is aware, the tenancy agreement is a verbal one, but B does not know and has failed to ascertain whether the tenancy commenced in June or in December. The tenant A pays the rates. B now wishes to be advised on the following points:—

(1) Are the premises subject to the Rent Restriction Acts?

(2) If they are, B has decided to increase the rent by the authorised 40 per cent. To do so—

(*a*) Must B give notice before 9th June that the increase will commence in December next and adapt the statutory form of notice accordingly; or

(*b*) Can the notice be served at any time and the increase be made to commence in four weeks from the service of the notice, and the rent payable in December apportioned accordingly; or

(*c*) As B does not know whether the tenancy is a June or a December one, should he for safety give before June a whole year's notice that the intended increase will be made a year hence?

A. (1) The premises are subject to the Rent Restrictions Acts (see *Hicks* v. *Snook* (1929), 73 Sol. J. 43).

(2) (*a*) The Rent Restrictions (Notices of Increase) Act, 1923, s. 1 (1), abolished the necessity for a notice to quit, but has not rendered it possible to increase the rent during the existence of a continuing tenancy. B must therefore give notice before 9th June by adapting the statutory form as set out in (*c*) below.

(*b*) The notice cannot be served at any time for the increase to commence in four weeks, and the December rent cannot therefore be apportioned.

(*c*) A year's notice that the increase will be made a year hence will be invalid, if the tenancy in fact began in December. B should therefore (before 9th June) give A notice of increase as follows: "The above increases will date from the 9th December, 1930, or at the expiration of the current year of your tenancy which shall expire next after the end of one half-year from the service of this notice."

See *Hirst* v. *Horn* (1840), 6 M. & W. 393.

Marriage Settlement — After-acquired Property — No Conveyance to Trustees of Settlement—Devolution of Legal Estate.

Q. 1990. Under a marriage settlement made in the year 1880 a lady covenanted to settle all after-acquired property which was to be vested in the trustees of the settlement and held by them upon trust at such time and in such manner as they should think fit to sell and convert and pay the income to the lady for life and after her death to her husband for life. The lady died on the 22nd June 1925, and letters of administration were granted to her husband in February, 1926. The after-acquired property included a house which it is now desired shall be sold. The legal estate in the house was never conveyed by the lady to the trustees, but they hold the deeds with the settlement. Is the legal estate in the house now vested in the husband either (*a*) as administrator of his wife, or (*b*) as tenant for life under the settlement subject to his assenting to himself, or is it in the trustees of the settlement by virtue of the vesting provisions of the Law of Property Act? It will be noted that there is a continuing life interest under the settlement during the husband's lifetime.

A. We express the opinion that the legal estate is vested in the trustees of the settlement upon trust for sale by virtue of L.P.A., 1925, Sched. I, Pt. II, paras 3 and 6 (*d*). So far as the after-acquired property at any rate is concerned, the settlement is by way of trust for sale, and there is therefore no question of the legal estate being held by the life tenant.

Conveyance by One Co-Owner to Another—Effect.

Q. 1991. By a conveyance dated prior to 1926, property was conveyed to A and B as joint tenants as part of their partnership property and by another conveyance dated after 1926, further property was conveyed to A and B in fee simple under the usual form of partnership conveyance. In 1929 A sold

his interest in all the land to B on a dissolution of the partnership. Both conveyances are made between partner A of the one part and partner B of the other part, and say that "A as beneficial owner thereby releases and conveys unto B all his share estate and interest in the land To hold the same unto B in fee simple to the intent that he may be seised of the entirety of the property free from the estate and right of A therein and free from the trust for sale." Is this the correct mode of vesting A's share in the property in B? Is all the land now vested in B absolutely free from the trust for sale and the beneficial interest of A in it? Please see Precedent No. 280 in the "Encyclopædia of Forms and Precedents," Vol. 15, p. 978.

A. A's conveyance passed all his estate to B (L.P.A., 1925, s. 63 (1)), though technically, perhaps, he (A) may not have been discharged from his trust (T.A., 1925, s. 37 (1) (*c*)). Any difficulty which may in the future arise would be due to the fact that a purchaser might require B to sell in pursuance of the trust for sale (L.P.A., 1925, s. 42 (1) (*a*)), which would involve the re-appointment of A as a trustee or the appointment of an additional trustee to act with B. It is submitted however, that as a trust for sale may be extinguished by the united action of all those entitled in equity a purchaser from B could safely accept title from him as beneficial owner without any other formality. The position is fully discussed in "Everyday Points in Practice," s. 4, Case 6, at p. 15. The gist of the answer there given is re-produced above.

Estate Duty—Reversionary Interest—Valuation.

Q. 1992. For the purposes of calculating estate duty on the deceased's reversion to a life interest in certain funds, where the life tenant has power to appoint a further life interest to a third party, and has at the date of the deceased's death neither exercised this power nor released it, should the calculation be based on the value as on the one life interest, or the two? What are the authorities on the point?

A. We regret that we have not been able to trace any authority on this point. It would seem to be a case for agreement with the Revenue. We are disposed to think that the Revenue will wish to ignore the possibility of a second life interest, and it may therefore be advisable to postpone payment until the interest falls into possession, for then it will be known whether the expectancy was in fact subject to the one or the two lives.

Will—Gift to Son—Provision that in Default of his leaving Issue his Share should Accrue to Shares of other Children or their Issue.

Q. 1993. A testatrix, who died in 1908, by her will left the residue of her estate to four step-children, and five children in equal shares, all of whom survived her. There was a proviso in the will that if any child or step-child should predecease her leaving issue, such issue should represent the deceased child, but this event did not occur. The will provided that the share of one step-son, X, should be retained in trust during his life and the income applied for his benefit, and that in the event of his death without issue the capital "held in trust for him" should "accrue equally to her other children or their issue in augmentation of their original shares." The whole of the estate has been distributed and the share held in trust vested in the trustees, the whole of such share being personalty. X is at present unmarried and aged sixty-three years. Since the death of the testatrix, and subsequent to the distribution of the estate, three step-children have died without leaving issue, and one child has died leaving children. In the event of the death of X without leaving issue:—

(1) Who will be entitled to share in the portion held in trust?

(2) Are the words "or their issue" to be considered as giving the children of a deceased child a direct interest, or do such words relate only to the issue of children who might have predeceased testatrix?

A. This appears clearly to be an executory gift over in equal shares to the other original legatees.

(1) If X died now his "share" would be divisible into eight equal parts, the personal representatives of deceased children and step-children of the testatrix taking equal shares with the survivors.

(2) In our opinion the words "of their original shares" make it clear that issue of a child who survived the testatrix take no interest.

Local Government Act, 1929, s. 113—Sale by Municipal Corporation of Property formerly belonging to the Poor Law Authority—Where is the Legal Estate?—Form of Conveyance.

Q. 1994. By s. 113 of the Local Government Act, 1929, the property belonging to the poor law authority on 1st April, 1930, was vested in the council of the county borough of X. It will be observed that the words "property of the council of a borough" do not occur in that section. The municipal corporation of that county borough has contracted to sell some valuable land that formerly belonged to the poor law authority, and the town clerk asserts that the corporation can convey the property by a conveyance under their common seal, pursuant to s. 9 of the Local Government Act, 1929. The purchaser objects. He alleges that by s. 113 the legal estate was vested in the council and not in the municipal corporation. That the municipal corporation is the body corporate constituted by the incorporation of the inhabitants of that borough and that the council is merely an unincorporated body who exercise the powers of the corporation: Municipal Corporations Act, 1882, ss. 7 (1), 10 (1). In answer to the town clerk's contention that by s. 15 (1) of the Interpretation Act, 1889, any reference to the property of a council shall be construed as a reference to the property of a municipal corporation acting by the council, the purchaser replies that there is in s. 113 no reference to the property of a borough council. The purchaser further urges that the property contracted to be sold vested in those persons who were on 1st April, 1930, members of the borough council as joint holders in trust for the municipal corporation. I shall be obliged by your advising whether the purchaser can safely accept a conveyance from the corporation under their common seal.

A. The purchaser's contention is incorrect. County boroughs were created by the Local Government Act, 1888, s. 31. Section 34 (1) gives the mayor, aldermen and burgesses "acting by the council" the powers, subject to certain modifications, of county councils, and sub-s. (8) provides that that Act and the Municipal Corporations Act, 1882, should be construed so as to give effect to the provisions of that section.

Annuity Secured on Deceased's Assets—Right of Annuitant to Administration Order.

Q. 1995. In 1908 A agreed in writing to pay B an annuity of £260 per annum during her life and charged all his estate of whatever nature with payment of that sum after death. A died in 1928, and B commenced an administration action claiming arrears of the annuity of £260 per annum. B also valued her annuity at a gross sum and claims payment thereof. Can you tell me if an annuitant is entitled to do this? Please cite cases. From the case of *Yates* v. *Yates*, 28 Beav. 637, it appears that an annuitant is not entitled to value her annuity in a gross sum.

A. In *Yates* v. *Yates* the question was merely as to adjusting the liability between the life owner and reversioner. An annuitant has a right to value the annuity if an administration order is made, but has apparently no right to obtain an administration order so long as his annuity is duly paid. Query, whether a full order for administration would be made, unless there was reason to believe the estate insolvent. See *Re Hargreaves Dicks* v. *Hare* (1890), R. 44 Ch. D. 236, and *Re Beeman, Fowler* v. *James* [1896] 1 Ch. 48.

Notes of Cases.

Court of Appeal.

Wimbledon Revenue Officer *v.* Kerslake.

Scrutton, Greer and Slesser, L.JJ. 11th July.

RATING—DE-RATING—BAKEHOUSE—RETAIL TRADE—PRIMARY PURPOSE—FACTORY PURPOSE—INDUSTRIAL HEREDITAMENT—RATING AND VALUATION (APPORTIONMENT) ACT, 1928 (18 & 19 Geo. 5, c. 44), s. 3.

Appeal from a decision of the Divisional Court on a case stated by the assessment committee (74 Sol. J. 422).

The appellant, J. C. M. Kerslake, was the occupier of premises at 40, High-street, Wimbledon, which consisted of a baker's and confectioner's shop with living rooms over and a bakehouse in the rear. The net annual value of the premises was £138. The assessment committee had decided that the hereditament should be entered in the special list, and they apportioned the user as to £27 industrial and £111 non-industrial. Against that decision the revenue officer had appealed to the Divisional Court. The shop on the premises was used for the retail sale of bread. That part of the hereditament which comprised the bakehouse and ovens was physically capable of a separate occupation, and the goods manufactured consisted of bread, cakes and chocolates. The hereditament was registered as a factory under the Factory and Workshop Acts. The Divisional Court held that the hereditament was being used and occupied primarily for the purposes of a retail shop and dwelling-house, and, therefore, was not to be placed in the special list of industrial hereditaments. Mr. Kerslake, the occupier, appealed.

The COURT allowed the appeal. The assessment committee, having found that the hereditament was an industrial one, and as there was no finding of fact with regard to primary purpose, there was no ground in law on which it could be said that the sale was more important than the making of bread. Appeal allowed.

COUNSEL: *Konstam*, K.C., and *Michael E. Rowe*, for the appellant; *The Attorney General* (*Sir William Jowitt*, K.C.), *Wilfrid Lewis* and *Colin Pearson*, for the revenue officer.

SOLICITORS: *Neve, Beck & Crane*; *The Treasury Solicitor*.

[Reported by T. W. MORGAN, Esq., Barrister-at-Law.]

Bancroft (Revenue Officer) *v.* Manchester Assessment Committee and Union Cold Storage Co. Limited.

Scrutton, Greer and Slesser, L.JJ. 11th July.

RATING—DE-RATING—PREMISES USED FOR COLD STORAGE—NOT AN INDUSTRIAL HEREDITAMENT—RATING AND VALUATION (APPORTIONMENT) ACT, 1928 (18 & 19 Geo. 5, c. 44), s. 3.

Appeal from the decision of the Divisional Court on a case stated under Baines's Act (74 SOL. J. 320).

The revenue officer had appealed to the Divisional Court against the inclusion by the assessment committee in the special list as an "industrial hereditament" of a cold store occupied by the Union Cold Storage Co., Ltd. The hereditament in question in this case was a large refrigerating store, used to keep perishable goods at a temperature which would prevent their perishing by decomposition. The processes carried on in the premises consisted of freezing, chilling, de-frosting, trimming and cutting and preparing carcasses for sale, and, on occasion, special treatment of damaged cargoes. In the case of eggs special care and constant supervision was needed both in refrigerating and de-frosting. The Divisional Court were unanimously of opinion that the premises were primarily used for storage purposes, and were not an industrial hereditament. The appeal of the revenue officer was accordingly allowed. The Union Cold Storage Co. appealed.

The COURT dismissed the appeal.

SCRUTTON, L.J., doubted whether the process of storing goods at a specified temperature other than that of the external air could be said to be either altering them or adapting them for future sale. In any event, he found it impossible to believe that Parliament used the word "storage" without intending to cover in it the well-known class of "cold stores." One reason for their so intending might be that "cold stores" were largely used to assist the sale of non-British products, and the benefit of de-rating was intended for British products.

The other members of the court concurred. Appeal dismissed.

COUNSEL: *Wilfrid Greene*, K.C., and *Granville Sharp*, for the appellants; *The Attorney-General* (*Sir William Jowitt*, K.C.), *Wilfrid Lewis* and *Colin Pearson*, for the revenue officer.

SOLICITORS: *Charles H. Wright*; *The Treasury Solicitor*.

[Reported by T. W. MORGAN, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Gottliffe *v.* Edelston.

McCardie, J. 19th June.

HUSBAND AND WIFE—MOTOR CAR ACCIDENT BEFORE MARRIAGE—WRIT ISSUED—SUBSEQUENT MARRIAGE OF PARTIES—ACTION CONTINUED—BARRED—MARRIED WOMEN'S PROPERTY ACT, 1882 (45 & 46 Vict. c. 75), s. 12.

Action begun at Leeds Assizes and adjourned to London.

In this action Esther Gottliffe claimed damages from Dr. Harry Edelston for personal injuries which she sustained while riding in the defendant's motor car, and which, she alleged, were caused by his negligent driving. The plaintiff alleged that the defendant drove the car so negligently that it collided with a horse and cart, and that as the result she lost the sight of one eye. Since the accident the parties had married, and the defendant, who denied negligence, now pleaded that because he and the plaintiff had got married since the issue of the writ the action was not at law maintainable. The writ was issued on the 14th January, 1929, and the marriage took place on the 21st April, 1929. The parties were living happily together, and the action was continued by reason of insurance, the interests of an insurance company depending on the result of the action.

MCCARDIE, J., held that the defendant had been guilty of negligence, and he (his lordship) assessed the damages at £800. The main question was whether or not the marriage of the parties destroyed the cause of action possessed by the plaintiff when a spinster—whether the wife could sue the husband for his ante-nuptial tort. It was clear that at common law no such action would lie, and there then arose the question whether or not she was entitled to sue by the provisions of any statute. His lordship then referred to s. 12 of the Married Women's Property Act, 1882, and said that the plaintiff's pre-nuptial cause of action was a "thing in action" according to the definition in s. 24, and, therefore, a right of property. Was her right of action, existing as it did at the date of the marriage, "separate property" within the Act of 1882? If it was not separate property within s. 12, then the Act of 1882 gave her no cause of action against her husband. He was of opinion that "thing in action" as defined by s. 24 of the Act, was used in a limited sense only; and that the right of personal safety and security was not her "property" in the normal meaning of that word. He came to the conclusion that the action was not one for the protection and security of the wife's separate property, and he held that the claim was barred by the prohibitory words of s. 12 of the Act. Judgment for the defendant.

COUNSEL: *A. S. Diamond*, for the plaintiff; *C. J. Frankland*, for the defendant; *D. H. Robson* held a watching brief for interested parties.

SOLICITORS: *Gisborne & Co.*, for *Carr, Sandelson & Co.*, Leeds; *J. H. Milner & Son*, Leeds; *P. W. Baster*.

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Bergens Dampskibs Assurance Forening *v.* **Sun Insurance Office, Ltd.**

Rowlatt, J. 20th June.

SHIPPING — INSURANCE — STRANDED VESSEL — AGREEMENT TO REGARD AS "TOTAL LOSS"—MEANING OF "ARRANGED TOTAL LOSS."

The plaintiffs, together with other underwriters, insured the owners of the Norwegian steamship "Sverre" against, *inter alia*, perils of the sea during 1927. The policy provided, *inter alia*, "Insurance . . . upon hull, machinery, etc., valued as in original policy. Being against total and/or constructive and/or arranged total loss of vessel . . ." The amount insured by the plaintiffs was 120,000 kroner, and they re-insured themselves against that risk with the defendants in the sum of 12,500 kroner. The "Sverre" stranded in the Black Sea on the 2nd February, 1927, and was badly damaged. She was subsequently got off, but owing to the risk that she might become a total loss, and the probability that proper repairs would cost more than her repaired value, the underwriters and the owners agreed to settle the matter on the terms that the vessel should be regarded as a total loss, and that they should pay the owners 435,000 kroner. The proportion of the sum paid by the plaintiffs which they now claimed from the defendants was 6,997 kroner (£361 5s. 1d.). The question was whether or not the agreement between the underwriters and the owners amounted to an "arranged total loss" within the meaning of the words in the policy (*supra*).

ROWLATT, J., said that it was clear that the process of repair of the vessel would be very expensive, and that she might never be able to reach a place where repairs could be done. The underwriters had offered the owners a sum which would at any rate limit their loss, and which would still give the owners more than their ship would be worth if repaired. If there had been a real claim for a constructive total loss, and it had been compromised, that would have come within the words "arranged total loss," even if the claim had not in fact been well founded; but the words did not mean that by arrangement a vessel could be treated as if she had been totally lost when she was not so. In his view, it was not possible to create a conventional total loss by mere arrangement. There must either be a constructive total loss or a genuine claim for one, and parties could not create an artificial total loss by arrangement. Judgment for the defendants.

COUNSEL: *Simey*, for the plaintiffs; *David Davies*, for the defendants.

SOLICITORS: *Waltons & Co.*; *Parker, Garrett & Co.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

National Pari-Mutuel Association, Ltd. *v.* **The King.**

Branson, J. 24th July.

GAMING—CLUB BETTING POOL—BETTING TAX VOLUNTARILY PAID—CLAIM FOR RETURN OF TAX—ALLEGED MISTAKE OF FACT—MISTAKE OF LAW—FINANCE ACT, 1926, 16 & 17 Geo. 5, c. 22, s. 15.

This was a petition of right brought by the National Pari-Mutuel Association, Ltd., for the repayment of £906 betting tax and £20 paid for betting certificates, which the suppliants alleged they had paid to the Commissioners of Customs and Excise between 1926 and 1928 under a mistake of fact in the following circumstances. The suppliant company conducted a club for whose members it provided facilities for a pool for betting on horse racing. Ten per cent. of the total pool was deducted as remuneration for the company, and the remaining 90 per cent., less betting tax, was distributed among the winning members. The company itself was not a party to any bet. The company had paid the betting tax voluntarily, and now claimed its return, alleging that it had been paid under mistake of fact, and that their case was covered by *Attorney-General* v. *Luncheon and Sports Club, Ltd.* [1929] A.C. 400, where it was held that the bets were not made with a bookmaker, as provided by the statute, and therefore attracted no betting tax. The Crown pleaded in the present case that the payments were made voluntarily, with full knowledge of all material facts so as to disentitle the suppliant company to relief; the money was paid under mistake of law, and was not, therefore, recoverable.

BRANSON, J., said that the question which he had to determine was whether the case fell within the category of cases in which the mistake had been held to be a mistake of fact, or whether it came within the category of cases in which the mistake had been held to be one of law. It seemed to him, in the present case, that the mistake was one of law. The suppliant company, knowing everything that it was doing, knowing the rules and the way in which they were being carried out, had come to the conclusion that a legal liability had arisen on their part and had decided to discharge that liability. That view, according to the case of *Attorney-General* v. *Luncheon and Sports Club, Ltd.*, was wrong, and in taking it the suppliant company mistook the law. It was plainly a case of mistake of law. The suppliant company had acted as a bookmaker; it had carried on the business of negotiating bets within the meaning of s. 18 of the Finance Act, 1926. The petition would be dismissed, with costs.

COUNSEL: *Oliver*, K.C., *Harold Simmons*, and *J. H. C. Goldie*, for the suppliants: *The Attorney-General* (*Sir William Jowitt*, K.C.), and *Bowstead*, for the Crown.

SOLICITORS: *J. J. Hands*; *The Solicitor for Customs and Excise.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Obituary.

MR. HENRY HODGE.

Mr. Henry Hodge, Solicitor to the East Riding County Council, died suddenly on Wednesday, the 13th inst. at his residence in Norfolk Street, Beverley. He was fifty years of age, and attended to his duties at the County Hall on the same morning. He leaves a widow and one daughter.

Legal Parables.

LXI.

The Stipendiary who saw the Test Match.

There was once a stipendiary magistrate who loved a day's cricket better than anything in the world, except, of course, his work, which he attacked with so much zest that he did it all in about three days of two hours in each week. And it so happened that on one memorable occasion a Test Match was arranged to be played in the populous borough over whose court the learned stipendiary presided. It so happened also, by the merest coincidence, that the learned stipendiary had not a single case to try that day.

But, alas! he was (except where his work was concerned) a forgetful fellow, and he failed to take the elementary precaution of securing a seat in advance for a match about which newspaper scribes had waxed so lyrical that the Great War and Empire Crusades and Two Million Unemployed all seemed, when put in their proper perspective, merest trifles.

When the worthy magistrate arrived at the ground he found much excitement, but no room, not even so much as standing room. He found also many policemen, some in their smart uniforms, others in those strangely assorted garments which policemen call plain clothes. These all knew him, respected him, and saluted him; but none could offer him a seat.

And as he bewailed his lot, and explained to a detective that really he would gladly have been at work, but, finding

none, by accident, he had thought he would look in for a little cricket, he noticed the detective inattentive to him, and intent on other business. So he inquired of the sleuth what he was tracking down; and the sleuth whispered hoarsely, behind his hand, that there, bang in the middle of the front row, was Closhy Sam, one of the best crooks in the country, not long out from doing a stretch. So the learned stipendiary said that was really very interesting, and it seemed a little hard too, that here was a well-known criminal able to get the best seat at a Test Match, when an over-worked magistrate who wanted a little relaxation on one of his rare off-days, was not even allowed to stand.

Then the detective said "Dammit! Of course! Easy as winking!" And then he said he begged his worship's pardon, not that he swore as a rule, but handling criminals made a man forget himself at times; and if his worship would kindly wait a minute he'd see him all right.

And off he went and brought Closhy Sam out of his seat, with his usual greeting of "I want to speak to you a moment on the quiet." When Sam, a little surprised, asked "What's this for, Mr. Holmes?" the detective said something about on suspicion, and larceny, and identification parade. And they took him to the police station (but on the way the detective told the magistrate where there was now a vacant seat), and they put him among other men of similar build and appearance, and nobody picked him out, so the police told him he was jolly lucky this time and he could go for the present.

Closhy Sam thought perhaps he was lucky, though he didn't quite see why, but any way he knew it was no good making a fuss. He had lost his seat and his appetite for cricket, so he didn't go back. As for the magistrate, he saw a wonderful first-wicket stand and a lot of googlies and appeals for lbw, and all sorts of wonderful things, and felt that he had not only enjoyed a day's well-earned relaxation, but, in some dim way, had helped in bringing a rascal to justice. Of course, he was just a little disappointed when he found next day that Closhy Sam did not appear before him, because, after all, the fellow had no business in the magistrate's seat at all.

Legal Notes and News.

Wills and Bequests.

Sir Herbert James Hope, of York House, York-street, Marylebone, W., a former Senior Registrar of the London Bankruptcy Court, who died on 23rd May, aged seventy-nine, left estate of the gross value of £18,793, with net personalty £17,993. He left one year's wages each to his cook, Mrs. Elizabeth Sarah Williams, and her daughter, Evelyn Mary Williams, if in his service at his death; and an annuity of £50 to his former housekeeper, Emma Cronk, if not already given.

Mr. Henry Metcalfe Hett, solicitor, of Wrawby, Lincs, senior partner in the firm of Hett, Davy and Co., solicitors, of Brigg and Scunthorpe, left estate of the gross value of £5,718, with net personalty £4,043.

Mr. Joseph Rose Bowden (60), of Westfield, New Mills, Derby, senior partner of Messrs. Boddington, Jordan and Bowden, solicitors, left estate of the gross value of £5,528, with net personalty £1,295.

UNIVERSITY COLLEGE, EXETER.

We are officially informed that the Master of the Rolls has approved a petition submitted to him that the Department of Law of the University College be recognised under s. 3 of the Solicitors Act, 1922. Under the approved scheme any person who before entering into articles of clerkship has passed the matriculation examination of the University of London or an equivalent examination, Latin being in either case one of the subjects passed, and who has followed a course of study prescribed for the time being by the Senate of the University College and has subsequently passed the Intermediate Examination for the external degree in laws of the University of London, shall be capable of being admitted and enrolled as a solicitor without serving articles to a practising solicitor for more than four years.

MENTAL TREATMENT ACT, 1930.

The Board of Control, with the approval of the Minister of Health, have appointed a committee with the following terms of reference:—

"To consider and advise what principles should be observed in the approval by the Board of Control of medical practitioners for the purposes of ss. 1 (3) and 5 (3) of the Mental Treatment Act."

The committee is constituted as follows:—

Sir John Rose Bradford, President of the Royal College of Physicians (chairman); Sir Hubert Bond, Commissioner of the Board of Control; Dr. R. G. Gordon, British Medical Association; Dr. G. W. B. James, Royal Society of Medicine; Mr. A. Rotherham, Commissioner of the Board of Control; Dr. J. S. B. Stopford, General Medical Council; Mr. R. Worth, Royal Medico-Psychological Association, with Mr. H. C. Beakley, of the Board of Control, as secretary.

Section 1 of the Act deals with the power to receive voluntary patients, and sub-s. (3) with the medical recommendation in the case of persons under the age of sixteen. Section 5 deals with temporary treatment without certification, and sub-s. (3) with medical recommendation.

REGISTRATION OF ACCOUNTANTS.

COMMITTEE'S REPORT.

The Departmental Committee on the Registration of Accountants have completed their inquiry, and presented their report to the President of the Board of Trade on the 31st July.

The report has been published (Cmd. 3645) and copies may be obtained from H.M. Stationery Office or through any bookseller, price 4d.

COST OF LITIGATION.

The Lord Chancellor has consented to receive a deputation from the London Chamber of Commerce after the end of the Long Vacation, in connexion with the memorandum on the expense of litigation issued by that body early this summer.

The memorandum, which was prepared by the London Chamber's Parliamentary and Commercial Law Committee and dealt with the subject from a broad national point of view, has created a great deal of interest—not only throughout Great Britain but also in other countries. Applications for copies of it have been received from as far afield as Australia, Germany, Palestine and the United States.

ENGLISH MARRIAGE LAW.

The Rev. Dr. Geikie Cobb, at the evening session of the Modern Churchmen's Conference on "Birth Control and Divorce," on Wednesday, speaking on "Marriage and Divorce in the Modern State," said that Church and State in this country were both responsible for the present muddled condition of our marriage laws, the Church by taking up an obscurantist attitude and the State by ignoring the recommendations of the Royal Commission of eighteen years ago. Outside the countries which were still unhappily under the influence of the Latin Church, the marriage law of England was almost the worst in the world. Yet the House of Commons had never had the courage to attempt its reform, notwithstanding the example set by that far more efficient legislative body, the House of Lords.

SALE OF MILK AFTER EIGHT P.M. ILLEGAL.

An important point to milk dealers and the general public was, says *The Notts Guardian*, brought out at Barrow Police Court recently, when a woman was fined 20s. for selling milk at 8.30 p.m. on 6th July.

"I thought milk could be sold at any hour of the day or night, but it seems it cannot," said Mr. J. Pickavance, the defending solicitor.

Most milk dealers thought milk was excluded from the Shops Closing Act, he said, but, though it could be sold after one o'clock on the weekly half-holiday, it could not, under a different Act, be sold after 8 p.m.

"It seems strange, because milk is a very perishable commodity," he commented.

KINGSBRIDGE AND SALCOMBE WATER BOARD.

Mr. R. G. WINTER has been appointed Clerk and Solicitor to the Kingsbridge and Salcombe Water Board. This Board is a new local authority, formed in pursuance of the Kingsbridge and Salcombe Water Board Act, 1930, which received the Royal Assent on 4th June last.

Long Vacation, 1930.

HIGH COURT OF JUSTICE.

NOTICE.

During the Vacation, up to and including Friday, the 5th September, all applications "which may require to be immediately or promptly heard," are to be made to The Hon. Mr. Justice HUMPHREYS.

COURT BUSINESS.—The Hon. Mr. Justice HUMPHREYS will, until further notice, sit in The Lord Chief Justice's Court, Royal Courts of Justice, at half-past 10 on Wednesday in each week commencing on Wednesday, 6th August, for the purpose of hearing such applications of the above nature, as, according to the practice in the Chancery Division, are usually heard in Court.

PAPERS FOR USE IN COURT.—CHANCERY DIVISION.—The following Papers for the Vacation Judge are required to be left with the Cause Clerk in attendance at the Chancery Registrars' Office, Room 136, Royal Courts of Justice, on or before 1 o'clock, two days previous to the day on which the application to the Judge is intended to be made:—

1.—Counsel's certificate of urgency or note of special leave granted by the Judge.

2.—Two copies of notice of motion, one bearing a 5s. adhesive stamp.

3.—Two copies of writ and two copies of pleadings (if any).

4.—Office copy affidavits in support, and also affidavits in answer (if any).

No Case will be placed in the Judge's Paper unless leave has been previously obtained or a Certificate of Counsel that the Case requires to be immediately or promptly heard, and stating concisely the reasons, is left with the papers.

N.B.—Solicitors are requested when the application has been disposed of, to apply at once to the Judge's Clerk in Court for the return of their papers.

URGENT MATTERS WHEN THE JUDGE IS NOT PRESENT IN COURT OR CHAMBERS.—Application may be made *in any case of urgency* to the Judge personally (if necessary), or by post or rail, prepaid, accompanied by the brief of Counsel, office copies of the affidavits in support of the application, and also by a Minute, on a separate sheet of paper, signed by Counsel, of the order he may consider the applicant entitled to, and also an envelope, sufficiently stamped, capable of receiving the papers, addressed as follows: "Chancery Official Letter: To the Registrar in Vacation, Chancery Registrars' Office, Royal Courts of Justice, London, W.C.2."

The address of the Vacation Judge can be obtained on application at Room 136, Royal Courts of Justice. Vacation Registrar, Mr. ANDREWS (Room 188).

CHANCERY CHAMBER BUSINESS.—The Chancery Chambers will be open for Vacation business on Tuesday, Wednesday, Thursday and Friday in each week, from 10 to 2 o'clock.

KING'S BENCH CHAMBER BUSINESS.—The Hon. Mr. Justice HUMPHREYS will sit for the disposal of King's Bench business in Judge's Chambers at 11 a.m. on Tuesday in each week.

PROBATE AND DIVORCE.—Summonses will be heard by the Registrar, at the Principal Probate Registry, Somerset House, every day during the Vacation at 11.15 (Saturdays excepted).

Motions will be heard by the Registrar on Wednesdays, the 13th and 27th August, and the 10th and 24th September, at the Principal Probate Registry at 12.15.

Decrees will be made absolute on Wednesdays, the 6th and 20th August, the 3rd and 17th September and the 1st October.

All Papers for making Decrees absolute are to be left at the Contentious Department, Somerset House, on the preceding Thursday, or before 2 o'clock on the preceding Friday. Papers for Motions may be lodged at any time before 2 o'clock on the preceding Friday.

The Offices of the Probate and Divorce Registries will be opened at 10 a.m. and closed at 4 p.m. except on Saturdays, when the Offices will be opened at 10 a.m. and closed at 1 p.m.

Insurance Notes.

The Legal & General Assurance Society, Ltd., announce that as from the 16th August their Leeds office will move to a temporary address at 18, Park-lane (The Headrow).

These arrangements are necessitated by a rebuilding scheme at the present address in South Parade. It is anticipated that the reconstructed offices will be available at the end of 1931.

The directors of the Legal & General Assurance Society announce that they have appointed Mr. T. G. Simmons as assistant manager of their Belfast Office.

Mr. Simmons joined the Society's service at the Head Office, in London, in 1917, and was subsequently appointed an inspector at Brighton in 1923.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (1st May, 1930) 3%. Next London Stock Exchange Settlement Thursday, 28th August, 1930.

	Middle Price 20th Aug. 1930.	Flat Interest Yield.	Approximate Yield with redemption.
English Government Securities.		£ s. d.	£ s. d.
Consols 4% 1957 or after	88⅞	4 10 2	—
Consols 2½%	55⅝	4 9 8	—
War Loan 5% 1929-47	104	4 16 2	—
War Loan 4½% 1925-45	99¼	4 10 6	4 11 9
War Loan 4% (Tax free) 1929-42	103	3 17 8	3 14 0
Funding 4% Loan 1960-90	91½	4 7 5	4 8 0
Victory 4% Loan (Available for Estate Duty at par) Average life 35 years	96	4 3 4	4 4 6
Conversion 5% Loan 1944-64	105	4 15 3	4 14 0
Conversion 4½% Loan 1940-44	99¼	4 10 6	4 11 0
Conversion 3½% Loan 1961	79¼	4 8 1	—
Local Loans 3% Stock 1912 or after	65	4 12 4	—
Bank Stock	257½	4 13 2	—
India 4½% 1950-55	86	5 4 8	5 11 8
India 3½%	63	5 11 1	—
India 3%	54	5 11 1	—
Sudan 4½% 1939-73	95	4 14 9	4 15 6
Sudan 4% 1974	87	4 12 0	4 14 3
Transvaal Government 3% 1923-53 (Guaranteed by British Government, Estimated life 15 years.)	83¼	3 11 10	4 2 3
Colonial Securities.			
Canada 3% 1938	91	3 5 11	4 6 0
Cape of Good Hope 4% 1916-36	96½	4 2 11	4 12 6
Cape of Good Hope 3½% 1929-49	84	4 3 4	4 15 6
Ceylon 5% 1960-70	101	4 19 0	4 19 0
Commonwealth of Australia 5% 1945-75	91½	5 9 3	5 10 3
Gold Coast 4½% 1956	93	4 16 9	4 19 9
Jamaica 4½% 1941-71	94	4 15 9	4 17 0
Natal 4% 1937	97	4 2 6	4 10 0
New South Wales 4½% 1935-45	83½	5 7 9	6 3 0
New South Wales 5% 1945-65	88⅛	5 13 0	5 15 0
New Zealand 4½% 1945	95	4 14 9	4 19 3
New Zealand 5% 1946	102	4 18 0	4 17 6
Nigeria 5% 1950-60	102	4 18 0	4 17 6
Queensland 5% 1940-60	89½	5 11 9	5 13 0
South Africa 5% 1945-75	102	4 18 0	4 17 9
South Australia 5% 1945-75	89½	5 11 9	5 13 0
Tasmania 5% 1945-75	87½	5 14 3	5 16 0
Victoria 5% 1945-75	89½	5 11 9	5 13 0
West Australia 5% 1945-75	87½	5 14 3	5 16 0
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corporation	63	4 15 3	—
Birmingham 5% 1946-56	104	4 16 2	4 14 9
Cardiff 5% 1945-65	100xd	5 0 0	5 0 0
Croydon 3% 1940-60	72	4 3 4	4 15 0
Hastings 5% 1947-67 (First full half year's Dividend in October, 1930.)	103	4 17 1	4 15 9
Hull 3½% 1925-55	79	4 8 7	4 19 6
Liverpool 3½% Redeemable by agreement with holders or by purchase	74	4 14 7	—
London City 2½% Consolidated Stock after 1920 at option of Corporation	53	4 14 4	—
London City 3% Consolidated Stock after 1920 at option of Corporation	64	4 13 9	—
Manchester 3% on or after 1941	64	4 13 9	—
Metropolitan Water Board 3% "A" 1963-2003	66	4 10 11	—
Metropolitan Water Board 3% "B" 1934-2003	66	4 10 11	—
Middlesex C.C. 3½% 1927-47	85	4 2 4	4 16 0
Newcastle 3½% Irredeemable	73	4 15 11	—
Nottingham 3% Irredeemable	64	4 13 9	—
Stockton 5% 1946-66	100	5 0 0	5 0 0
Wolverhampton 5% 1946-56	102	4 18 0	4 17 3
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	81	4 18 9	—
Gt. Western Rly. 5% Rent Charge	99	5 1 0	—
Gt. Western Rly. 5% Preference	92½xd	5 8 1	—
L. & N.E. Rly. 4% Debenture	74½	5 7 5	—
L. & N.E. Rly. 4% 1st Guaranteed	69xd	5 15 11	—
L. & N.E. Rly. 4% 1st Preference	53xd	7 10 11	—
L. Mid. & Scot. Rly. 4% Debenture	78½	5 1 11	—
L. Mid. & Scot. Rly. 4% Guaranteed	72½xd	5 10 4	—
L. Mid. & Scot. Rly. 4% Preference	60xd	6 13 4	—
Southern Railway 4% Debenture	80	5 0 0	—
Southern Railway 5% Guaranteed	96½xd	5 3 8	—
Southern Railway 5% Preference	85½xd	5 17 0	—